

House Study Bill 224

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE, REGULATION
AND LABOR BILL BY
CHAIRPERSON JENKINS)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the licensing requirements of dealers of new
2 motor vehicles including the license application, establishing
3 or changing the location of the place of business of a dealer
4 of new motor vehicles, and providing for payment of costs and
5 providing an effective date.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 3053HC 81
8 kk/gg/14

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1 1 Section 1. Section 322.2, Code 2005, is amended by adding
2 the following new subsections:
1 3 NEW SUBSECTION. 1A. "Community" means the same as defined
1 4 in section 322A.1.
1 5 NEW SUBSECTION. 9A. "Franchise" means the same as defined
1 6 in section 322A.1.
1 7 Sec. 2. Section 322.4, Code 2005, is amended by adding the
1 8 following new subsection:
1 9 NEW SUBSECTION. 4A. a. If the application is for a motor
1 10 vehicle dealer's license for new vehicles, a statement of the
1 11 geographic boundaries of the applicant's community for each
1 12 make of motor vehicle which the applicant will offer for sale
1 13 at retail at each place of business specified in the
1 14 application.
1 15 b. A place of business of an applicant for a motor vehicle
1 16 dealer's license for new vehicles shall not be located closer
1 17 than five miles from the geographic boundary of the
1 18 applicant's community unless any of the following apply:
1 19 (1) The application contains the written consent of all
1 20 dealers of new motor vehicles of the same make or makes as
1 21 those which the applicant proposes to sell at retail whose
1 22 principal place of business is located within ten miles of the
1 23 applicant's proposed place of business.
1 24 (2) The application includes a request to locate the place
1 25 of business closer to the geographic boundary of the
1 26 applicant's community than permitted by this subsection and an
1 27 administrative law judge of the department of inspections and
1 28 appeals determines at a hearing held pursuant to chapter 17A
1 29 that the applicant has good cause to so locate the place of
1 30 business and that one of the primary purposes of the proposed
1 31 location is a purpose other than to serve an area outside of
1 32 the applicant's community. The application shall also include
1 33 a list of all dealers of new motor vehicles of the same make
1 34 or makes as proposed in the application who have a principal
1 35 place of business located within fifteen miles of the
2 1 applicant's proposed place of business. Failure to list all
2 2 such dealers shall result in a dismissal of the application
2 3 without prejudice. The administrative law judge assigned to
2 4 make the determination of good cause pursuant to this
2 5 subparagraph shall provide notice of the hearing to all
2 6 dealers of new motor vehicles listed by the applicant and to
2 7 any other persons deemed to be interested persons by the
2 8 department of inspections and appeals. The applicant shall
2 9 pay all costs of the hearing and the department may require
2 10 prepayment of the costs prior to hearing.
2 11 (3) If the applicant's community is located on the state's
2 12 boundary with an adjoining state, the geographic boundary of
2 13 the applicant's community shall include the contiguous state
2 14 boundary, but the location restrictions of this subsection

2 15 shall not apply to the community's contiguous state boundary.

2 16 Sec. 3. NEW SECTION. 322.8A RELOCATION OF DEALER'S

2 17 PRINCIPAL PLACE OF BUSINESS.

2 18 1. a. The principal place of business of a licensed
2 19 dealer of new motor vehicles shall not be moved to a location
2 20 closer to or less than ten miles from the principal place of
2 21 business of another licensed dealer of new motor vehicles of
2 22 the same make or makes unless any of the following apply:

2 23 (1) The proposed location is within the licensee's
2 24 community and is within two miles of the existing location of
2 25 the licensee's principal place of business and the licensee
2 26 has not relocated its principal place of business within the
2 27 past five years.

2 28 (2) The licensee files with the department a written
2 29 consent of all dealers of new motor vehicles of the same make
2 30 or makes as those which the licensee sells at retail who have
2 31 a principal place of business within ten miles of the proposed
2 32 location.

2 33 (3) The licensee files a request with the department to
2 34 move the licensee's principal place of business to a location
2 35 closer to or less than ten miles from the principal place of
3 1 business of another licensed dealer of new motor vehicles of
3 2 the same make or makes, and an administrative law judge of the
3 3 department of inspections and appeals determines at a hearing
3 4 held pursuant to chapter 17A that the licensee has good cause
3 5 to so locate the place of business and that one of the primary
3 6 purposes of the proposed location is a purpose other than to
3 7 serve an area outside of the applicant's community. The
3 8 licensee shall file with the request a list of all dealers of
3 9 new motor vehicles of the same make or makes who have a
3 10 principal place of business located within fifteen miles of
3 11 the licensee's proposed location. Failure to list all such
3 12 dealers shall result in a dismissal of the request without
3 13 prejudice. The administrative law judge assigned to make the
3 14 determination of good cause pursuant to this subparagraph
3 15 shall provide notice of the hearing to all dealers of new
3 16 motor vehicles listed by the licensee and to any other persons
3 17 deemed to be interested persons by the department of
3 18 inspections and appeals. The licensee shall pay all costs of
3 19 the hearing and the department may require prepayment of the
3 20 costs prior to hearing.

3 21 (4) If the licensee shares a geographic boundary in common
3 22 with another dealer of licensed new motor vehicles of the same
3 23 make or makes and the principal place of business of the other
3 24 licensed dealer of new motor vehicles of the same make or
3 25 makes is located closer than five miles from the common
3 26 geographic boundary, the licensee may move its principal place
3 27 of business for that make or makes to a new location within
3 28 its community which is not closer than five miles to the
3 29 common geographic boundary.

3 30 b. Notwithstanding any provision of this subsection, the
3 31 principal place of business of a licensed dealer of new motor
3 32 vehicles shall not be moved to a location which is more than
3 33 ten miles from its existing location unless the requirements
3 34 of subsection 2 are also satisfied.

3 35 2. a. A licensed dealer of new motor vehicles shall not
4 1 move its principal place of business to a location more than
4 2 ten miles from its existing location unless any of the
4 3 following apply:

4 4 (1) The principal place of business being moved by the
4 5 licensee is moved to a location within the licensee's
4 6 community and is separately licensed to the same licensee as
4 7 another principal place of business of a dealer of new motor
4 8 vehicles.

4 9 (2) The area of the licensee's community has changed by
4 10 more than twenty percent.

4 11 (3) The licensee's franchise has been amended with the
4 12 express consent of the licensee to specify the proposed
4 13 location of the licensee's principal place of business within
4 14 the licensee's community.

4 15 (4) The licensee files a request with the department to
4 16 move the licensee's principal place of business to a location
4 17 which is more than ten miles from its existing location, and
4 18 an administrative law judge of the department of inspections
4 19 and appeals determines at a hearing held pursuant to chapter
4 20 17A that the proposed location will not substantially diminish
4 21 the motor vehicle retail service provided by the licensee in
4 22 its community for the make or makes sold by the licensee and
4 23 that one of the primary purposes of the proposed location is a
4 24 purpose other than to serve an area outside of the applicant's
4 25 community. The licensee shall file with the request a list of

4 26 all dealers of new motor vehicles of the same make or makes
4 27 who have a principal place of business located within fifteen
4 28 miles of the licensee's proposed location. Failure to list
4 29 all such dealers shall result in a dismissal of the request
4 30 without prejudice. The administrative law judge assigned to
4 31 make the determination of good cause pursuant to this
4 32 subparagraph shall provide notice of the hearing to all
4 33 dealers of new motor vehicles listed by the licensee and to
4 34 any other persons deemed to be interested persons by the
4 35 department of inspections and appeals. The licensee shall pay
5 1 all costs of the hearing and the department may require
5 2 prepayment of the costs prior to hearing.

5 3 b. Notwithstanding any provision within this subsection,
5 4 the principal place of business of a licensed dealer of new
5 5 motor vehicles shall not be moved to a location closer than
5 6 ten miles from the principal place of business of another
5 7 licensed dealer of new motor vehicles of the same make or
5 8 makes unless the requirements of subsection 1 are also
5 9 satisfied.

5 10 Sec. 4. APPLICABILITY PROVISIONS. This Act shall not
5 11 apply to the establishment of a place of business of a
5 12 licensed dealer of new motor vehicles at a new location, or
5 13 the move of a principal place of business of a motor vehicle
5 14 licensee to a new location if all of the following apply:

5 15 1. The licensee acquired or leased the real estate for the
5 16 new location within the licensee's existing community on or
5 17 before August 14, 2004.

5 18 2. Construction of the place of business at the new
5 19 location commenced on or before October 1, 2004.

5 20 3. The department issues a new license to the motor
5 21 vehicle dealer licensee for the new location on or before
5 22 October 1, 2005.

5 23 Sec. 5. EFFECTIVE DATE. This Act, being deemed of
5 24 immediate importance, takes effect upon enactment.

5 25 EXPLANATION

5 26 This bill relates to the licensing requirements of dealers
5 27 of new motor vehicles. The bill requires applications for a
5 28 motor vehicle license for dealers of new vehicles to include a
5 29 statement of the geographic boundaries of the community of the
5 30 dealer applying for the license. The bill requires new
5 31 license applicants to locate a new place of business not
5 32 closer than five miles from the geographic boundary of the
5 33 applicant's community. However, an applicant may locate a
5 34 place of business less than five miles from its geographic
5 35 boundary if the applicant obtains the written consent of all
6 1 dealers of new motor vehicles within 10 miles of the proposed
6 2 location, or if the geographic boundary of the applicant's
6 3 community is the state's border, or if an administrative law
6 4 judge determines in a hearing that the applicant has good
6 5 cause and that one of the primary purposes for establishing
6 6 the proposed location is not to serve areas outside of the
6 7 applicant's community. Notice of the hearing shall be
6 8 provided to all dealers of new motor vehicles within 15 miles
6 9 of the proposed place of business.

6 10 The bill prohibits a motor vehicle dealer licensee from
6 11 relocating its principal place of business closer than 10
6 12 miles from the principal place of business of another motor
6 13 vehicle dealer licensee of the same make or makes. A
6 14 principal place of business of a licensee may be relocated
6 15 closer than 10 miles if the new location is within the
6 16 licensee's community and within two miles of the existing
6 17 location of the principal place of business and the licensee
6 18 has not previously relocated its principal place of business
6 19 within the previous five years. A principal place of business
6 20 of a licensee may also be relocated closer than 10 miles if
6 21 the licensee obtains written consent from all dealers of new
6 22 motor vehicles within 10 miles of the new location, or if an
6 23 administrative law judge determines that the licensee has good
6 24 cause and that one of the primary purposes for the move is not
6 25 to serve areas outside of the licensee's community.

6 26 The bill prohibits a motor vehicle dealer licensee from
6 27 relocating its principal place of business to a location more
6 28 than 10 miles from its existing location unless the principal
6 29 place of business being moved is within the licensee's
6 30 community and separately licensed to the same licensee, or if
6 31 the area of the licensee's community has changed by more than
6 32 20 percent. A licensee may relocate more than 10 miles from
6 33 its existing location if the licensee's franchise has been
6 34 amended to allow for the new location or if an administrative
6 35 law judge of the department of inspections and appeals
7 1 determines that the new location will not substantially

7 2 diminish the licensee's motor vehicle retail service provided
7 3 in the licensee's community and that one of the primary
7 4 purposes of the relocation is a purpose other than to serve
7 5 areas outside of the licensee's community.
7 6 The provisions of the bill do not apply to licensees who
7 7 acquired or leased the real estate for a new location within
7 8 the licensee's community on or before August 14, 2004, where
7 9 construction of the new location commenced on or before
7 10 October 1, 2004, and if the department of transportation
7 11 issues a new license to the licensee for the new location on
7 12 or before October 1, 2005.
7 13 The bill provides definitions for the terms "community",
7 14 and "franchise".
7 15 The bill takes effect upon enactment.
7 16 LSB 3053HC 81
7 17 kk:rj/gg/14